S.B. Criminal Revision Petition NO.133/2005
(Baljit Kaur @ Mohinder Kaur Vs. State & Ors.)

Date of order : 25.5.2007

HON'BLE MR. JUSTICE GOPAL KRISHAN VYAS

Mr. B.R. Bishnoi, for the petitioner.
Mr. Ashok Upadhyay, Public Prosecutor.
Mr. B.C. Bhansali, for the non-petitioners.

The petitioner, who is wife of Late Gurmail Singh (complainant), has filed the present petition challenging the order dated 20.11.2004 passed by Judicial Magistrate First Class, Padampur in Criminal Original Case No.37/1996 whereby the non-petitioners Nos. 2 and 3 were acquitted for offence under Sections 420, 467, 478 and 471 I.P.C.

As per the facts of the case, a first information report was lodged by husband of the petitioner – Late Gurmail Singh before Dy.S.P., Srikaranpur. Upon which, FIR No.173 dated 2.8.1995 was registered at Police Station Padampur District Sriganganagar. As per the FIR, it was alleged by late Gurmail Singh that he has purchased a truck No.RSC-2285 from Naresh Kumar S/o Ved Prakash in consideration of Rs.1,05,000/- and the said truck was handed over to him on 2.1.1979. Upon which, late Gurmail Singh hired accused Tirath Singh as driver and original papers were handed over to accused Tirath Singh.

It was further alleged that taking advantage of having possession of the original documents, Tirath Singh got transferred the registration of the vehicle in his name and also tampered with the chassis and engine number and got the transfer of the vehicle in the name of his son Paramjit Singh. It was further alleged that chassis number of the vehicle was changed from 3440736711056 to 334002748345. It was also alleged that engine number was also changed and the truck was of the model of 1976 and the same was changed as model of 1981.

After usual investigation, challan was filed against the non-petitioners No. 2 and 3 for offence under Sections 420, 467, 468 and 471 I.P.C. and after framing charges against the non-petitioners, the learned trial court recorded the statements of twelve prosecution witnesses and no evidence was produced in defence and ultimately, the impugned judgment was passed whereby the non-petitioners No.2 and 3 were acquitted for the above offence.

Learned counsel for the petitioner has contended that the judgment passed by the learned trial court is erroneous as the prosecution has adduced the evidence and proved its case with regard to offence as alleged to be committed by the non-petitioners but the learned trial court has

erroneously gave finding that the prosecution has not proved its case beyond reasonable doubt.

Learned counsel for the non-petitioners vehemently argued that the contention of the petitioner is not based on sound ground because upon the perusal of the impugned judgment, it is revealed that the prosecution has failed to prove its case beyond reasonable doubt. It is specifically alleged that the prosecution has failed to produce even Investigating Officer before the court. Likewise, the alleged FSL report was not exhibited and produced as evidence before the court. Therefore, in such circumstances, there was no option for the trial court except to acquit to non-petitioners. It is also contended by in para No.19, it is specifically stated that late Gurmail Singh was not registered owner of the vehicle. According to Gurmail Singh, he has purchased the said vehicle on 21.1.1979 from Naresh Kumar and said Naresh Kumar was examined before the court as PW-3 and he has specifically stated that he has sold the vehicle to late Gurmail Singh (complainant) in the year 1979 but why the said vehicle was not got transferred in the name of Gurmail Singh till 1991, is best known to the complainant. Learned counsel for the non-petitioners contended that the vehicle in question was in the name of Paramjit Singh. Thus, Paramjit Singh is registered owner of the vehicle. Therefore, a concocted and false story was

produced by the petitioner's husband – late Gurmail Singh and the non-petitioners were falsely implicated in this case. Therefore, the learned trial court has rightly appreciated the evidence and acquitted the non-petitioners for the alleged offence and there is no question of interference in the order impugned passed by learned trial court.

I have heard learned counsel for the parties and perused the impugned order as well as entire record of the case.

In the present case, firstly, it has not been proved by Gurmail Singh that he was registered owner of the vehicle and secondly, Investigating Officer was not produced before the court. Likewise, with regard to allegation of interpolation, when the matter was sent to FSL and report of FSL was procured, then, the prosecution was under obligation to prove before the court while exhibiting the said FSL report as evidence before the court. Thus, the trial court has rightly assessed the credibility of the witnesses on sound and cogent reasons. In these circumstances, in my opinion, the prosecution has failed to prove its case beyond reasonable doubt before and the trial court has rightly acquitted the non-petitioner for the alleged offence.

Accordingly, I see no reason to interfere

with the order impugned dated 20.11.2004 passed by Judicial Magistrate First Class, Padampur. Hence, the revision petition is dismissed.

(GOPAL KRISHAN VYAS), J .

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